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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,843	08/13/2001	Oded Gottesman	1277-277	9783
7590	05/25/2007		EXAMINER	
Berliner & Associates Robert Berliner 31st Floor 555 West Fifth St. Los Angeles, CA 90013			CHAWAN, VIJAY B	
			ART UNIT	PAPER NUMBER
			2626	
			MAIL DATE	DELIVERY MODE
			05/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/831,843	GOTTESMAN, ODED	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vijay B. Chawan	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 19 September 2006.  
2a)  This action is **FINAL**.                  2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-10 and 12-36 is/are pending in the application.  
    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-10, 12-36 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## **Application Papers**

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
    1.  Certified copies of the priority documents have been received.  
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

1. The rejection below is in response to the telephone interview with Mr. Ton on 5/16/07. The finality of the action mailed 11/28/06 is hereby withdrawn.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-10, 12-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-10, 12-36 define non-statutory processes because they merely manipulate an abstract idea (mathematical algorithm) without a claimed limitation to a practical application. The disclosed invention has a practical application in the technological arts (e.g. interpolatively coding input audio waveform signals); however, the claimed process, is a series of steps to be performed on a computer using a mathematical algorithm.

The disclosed invention is a method for using a computer to interpolatively code input waveform signals.

In claim 1, using a computer processor to process input audio waveform data, would overcome the 35 U.S.C. 101 rejection. In the telephone interview with Mr. Richard Ton, on May 16, 2007, it was indicated to Mr. Ton, that claims 1-10, 15-16, 19 would be allowable if the claims are amended to correct the deficiencies below including amending the claims to include "input audio waveform signals". However, claims 12-14,

17-18, 20-29, 32-33, and 34-36 are still unpatentable under 35 U.S.C. 101, because they are still steps that are performed on a computer using a mathematical algorithm.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 -10, and 12-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example, in claim 1, line 3, "slowly evolving waveform and other attributes", it is not clear what the applicant means by "other attributes".

Claim 3, item "i" does not exist, and therefore, does not have antecedent basis.

Claim 5, claims a "method including a system".

Claim 6, lines 3-4, "...to compute similarity or an equivalent measure..." is not clear.

Claim 7, lines 2-3, "...conducted at different rates..." is vague and indefinite.

Claim 9, lines 3-4, "...to maximize similarity or other meaningful objective..." is not clear.

Claim 12, lines 3-4, "...accumulated distortion between adjacent input waveforms and adjacent quantized and interpolated output waveforms.", is not clear.

Claim 19, line 2, "input waveform signals input signals" is not clear.

Rest of the claims are full of instances such as these, and should be addressed and corrected. Also claims 15 and 16 are rambling in nature, and it is not clear what the applicant regards as his invention. Some of the errors have been identified above, and other claims should be checked for further errors, and should be corrected.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-10, 12-36 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2626

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (571) 272-7601. The examiner can normally be reached on Monday Through Friday 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vijay B. Chawan  
Primary Examiner  
Art Unit 2626

vbc  
5/23/07